

Federal Acquisition Regulation

52.222-48

fixed hourly rates (if this is a time-and-materials or labor-hour contract) claimed and any relevant supporting data that the Contracting Officer may reasonably require. Upon agreement of the parties, the contract price, contract unit price labor rates, or fixed hourly rates shall be modified in writing. The Contractor shall continue performance pending agreement on or determination of any such adjustment and its effective date.

(f) The Contracting Officer or an authorized representative shall, until the expiration of 3 years after final payment under the contract, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor.

(End of clause)

[54 FR 19831, May 8, 1989, as amended at 67 FR 6121, Feb. 8, 2002; 74 FR 40461, Aug. 11, 2009; 79 FR 24219, Apr. 29, 2014]

52.222-45 [Reserved]

52.222-46 Evaluation of Compensation for Professional Employees.

As prescribed in 22.1103, insert the following provision:

EVALUATION OF COMPENSATION FOR PROFESSIONAL EMPLOYEES (FEB 1993)

(a) Recompetition of service contracts may in some cases result in lowering the compensation (salaries and fringe benefits) paid or furnished professional employees. This lowering can be detrimental in obtaining the quality of professional services needed for adequate contract performance. It is therefore in the Government's best interest that professional employees, as defined in 29 CFR 541, be properly and fairly compensated. As a part of their proposals, offerors will submit a total compensation plan setting forth salaries and fringe benefits proposed for the professional employees who will work under the contract. The Government will evaluate the plan to assure that it reflects a sound management approach and understanding of the contract requirements. This evaluation will include an assessment of the offeror's ability to provide uninterrupted high-quality work. The professional compensation proposed will be considered in terms of its impact upon recruiting and retention, its realism, and its consistency with a total plan for compensation. Supporting information will include data, such as recognized national and regional compensation surveys and studies of professional, public and private organizations, used in establishing the total compensation structure.

(b) The compensation levels proposed should reflect a clear understanding of work to be performed and should indicate the ca-

pability of the proposed compensation structure to obtain and keep suitably qualified personnel to meet mission objectives. The salary rates or ranges must take into account differences in skills, the complexity of various disciplines, and professional job difficulty. Additionally, proposals envisioning compensation levels lower than those of predecessor contractors for the same work will be evaluated on the basis of maintaining program continuity, uninterrupted high-quality work, and availability of required competent professional service employees. Offerors are cautioned that lowered compensation for essentially the same professional work may indicate lack of sound management judgment and lack of understanding of the requirement.

(c) The Government is concerned with the quality and stability of the work force to be employed on this contract. Professional compensation that is unrealistically low or not in reasonable relationship to the various job categories, since it may impair the Contractor's ability to attract and retain competent professional service employees, may be viewed as evidence of failure to comprehend the complexity of the contract requirements.

(d) Failure to comply with these provisions may constitute sufficient cause to justify rejection of a proposal.

(End of provision)

[48 FR 42478, Sept. 19, 1983, as amended at 57 FR 60582, Dec. 21, 1992]

52.222-47 [Reserved]

52.222-48 Exemption From Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Certification.

As prescribed in 22.1006(e)(1), insert the following provision:

EXEMPTION FROM APPLICATION OF THE SERVICE CONTRACT LABOR STANDARDS TO CONTRACTS FOR MAINTENANCE, CALIBRATION, OR REPAIR OF CERTAIN EQUIPMENT—CERTIFICATION (MAY 2014)

(a) The offeror shall check the following certification:

CERTIFICATION

The offeror ☐ does ☐ does not certify that—

(1) The items of equipment to be serviced under this contract are used regularly for other than Government purposes, and are sold or traded by the offeror (or subcontractor in the case of an exempt subcontractor) in substantial quantities to the general public in the course of normal business operations;

52.222-49

(2) The services will be furnished at prices which are, or are based on, established catalog or market prices for the maintenance, calibration, or repair of equipment.

(i) An “established catalog price” is a price included in a catalog, price list, schedule, or other form that is regularly maintained by the manufacturer or the offeror, is either published or otherwise available for inspection by customers, and states prices at which sales currently, or were last, made to a significant number of buyers constituting the general public.

(ii) An “established market price” is a current price, established in the usual course of trade between buyers and sellers free to bargain, which can be substantiated from sources independent of the manufacturer or offeror; and

(3) The compensation (wage and fringe benefits) plan for all service employees performing work under the contract are the same as that used for these employees and equivalent employees servicing the same equipment of commercial customers.

(b) Certification by the offeror as to its compliance with respect to the contract also constitutes its certification as to compliance by its subcontractor if it subcontracts out the exempt services. If the offeror certifies to the conditions in paragraph (a) of this provision, and the Contracting Officer determines in accordance with FAR 22.1003-4(c)(3) that the Service Contract Labor Standards statute—

(1) Will not apply to this offeror, then the Service Contract Labor Standards clause in this solicitation will not be included in any resultant contract to this offeror; or

(2) Will apply to this offeror, then the clause at 52.222-51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements, in this solicitation will not be included in any resultant contract awarded to this offeror, and the offeror may be provided an opportunity to submit a new offer on that basis.

(c) If the offeror does not certify to the conditions in paragraph (a) of this provision—

(1) The clause in this solicitation at 52.222-51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements, will not be included in any resultant contract awarded to this offeror; and

(2) The offeror shall notify the Contracting Officer as soon as possible, if the Contracting Officer did not attach a Service Contract Labor Standards wage determination to the solicitation.

(d) The Contracting Officer may not make an award to the offeror, if the offeror fails to execute the certification in paragraph (a) of

48 CFR Ch. 1 (10-1-14 Edition)

this provision or to contact the Contracting Officer as required in paragraph (c) of this provision.

(End of provision)

[72 FR 63082, Nov. 7, 2007, as amended at 74 FR 2731, Jan. 15, 2009; 79 FR 24219, Apr. 29, 2014]

52.222-49 Service Contract Labor Standards—Place of Performance Unknown.

As prescribed in 22.1006(f), insert the following clause:

SERVICE CONTRACT LABOR STANDARDS—PLACE OF PERFORMANCE UNKNOWN (MAY 2014)

(a) This contract is subject to the Service Contract Labor Standards statute, and the place of performance was unknown when the solicitation was issued. In addition to places or areas identified in wage determinations, if any, attached to the solicitation, wage determinations have also been requested for the following: _____ (insert places or areas). The Contracting Officer will request wage determinations for additional places or areas of performance if asked to do so in writing by _____ (insert time and date).

(b) Offerors who intend to perform in a place or area of performance for which a wage determination has not been attached or requested may nevertheless submit bids or proposals. However, a wage determination shall be requested and incorporated in the resultant contract retroactive to the date of contract award, and there shall be no adjustment in the contract price.

(End of clause)

[54 FR 19832, May 8, 1989, as amended at 71 FR 36935, June 28, 2006; 79 FR 24219, Apr. 29, 2014]

52.222-50 Combating Trafficking in Persons.

As prescribed in 22.1705(a), insert the following clause:

COMBATING TRAFFICKING IN PERSONS (FEB 2009)

(a) *Definitions.* As used in this clause—
Coercion means—

(1) Threats of serious harm to or physical restraint against any person;

(2) Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

(3) The abuse or threatened abuse of the legal process.